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FCC Mail Room

October 5, 2016

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Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: **WC Docket No. 10-90 *et al.*
West Kentucky and Tennessee Telecommunications Cooperative
Petition for Limited Waiver of Section 51.917(b)(7)(ii), 2011 Rate-of-Return
Carrier Base Period Revenue**

Ms. Dortch,

West Kentucky and Tennessee Telecommunications Cooperative ("WK&T") recently contacted the Kentucky Public Service Commission ("KPSC") regarding WK&T's Petition for Limited Waiver of Section 51.917(b)(7)(ii), 2011 Rate-of-Return Carrier Base Period Revenue ("Petition") currently pending before the Federal Communications Commission ("FCC"). WK&T has requested that KPSC Staff confirm that, in back billing access charges it had under collected from several carriers, it acted in conformity with Kentucky laws and WK&T's access tariff.

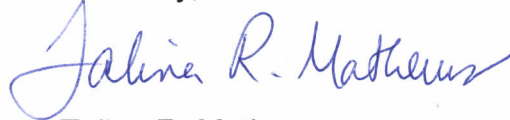KPSC Staff understands the following facts:

- WK&T has petitioned the FCC to adjust its Base Period Revenue ("BPR") to include revenues that, due to a billing error, WK&T did not receive until after the BPR had been calculated.

- The billing error, which WK&T discovered during April 2012, occurred due to WK&T's inadvertent omission of two rate elements (Carrier Common Line/Non-Traffic Sensitive Revenue ("CCL/NTSR") and Transport Interconnection Charge ("TIC")) from intrastate access rates charged since January 2010. The two rate elements were properly contained in WK&T's intrastate access tariff.

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- Upon discovering of the omission of the two rate elements, which resulted in WK&T under-recovering for intrastate access rates, WK&T undertook efforts in June 2012 to recover the under-collected revenue by sending invoices to six carriers.

- WK&T received 100% of the unbilled amounts from three carriers.

- WK&T collected less than the 100% of the unbilled amounts from two carriers, one of which was BellSouth Kentucky Telecommunications, LLC d/b/a AT&T Kentucky ("AT&T Kentucky").

- Part of the reason WK&T received partial payment from AT&T Kentucky was that it was determined that the part of the period of time during which under-billing occurred fell outside the two-year restriction on recovering unbilled service found in Kentucky Revised Statute ("KRS") 278.225.[1]

Based upon the facts presented to KPSC Staff, it appears that WK&T: 1) was entitled to bill for the CCL/NTSR and TIC rate elements; 2) correctly recovered the unbilled amounts from the carriers under its tariff and Kentucky law; 3) correctly applied the 2-year statute of limitations on unbilled service when recovering the unbilled amounts; 4) and otherwise acting in accordance with Kentucky law. KPSC Staff also notes that the KPSC has encouraged telecommunications carriers to attempt to resolve billing disputes informally before beginning a formal proceeding before the KPSC.

This letter is the opinion of KPSC Staff. Should you have any questions regarding this letter, please contact J.E.B. Pinney, Staff Attorney, at (502)782-2587 or at jeb.pinney@ky.gov.

Sincerely,

Talina R. Mathews
Executive Director

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[1] KRS 278.535 provides that, "[a]ll service supplied by a utility shall be billed within two (2) years of the service. No customer shall be liable for unbilled service after two (2) years from the date of the service, unless the customer obtained the service through fraud, theft, or deception." The KPSC applies this limitation to billing disputes between telecommunications carriers.